IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19147 of 2006
with
SPECIAL CIVIL APPLICATION No. 19148 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ISMAIL ALIAS MOHMMADBHAI ESHA PATEL & 1 - Petitioner(s)
Versus
YAKUBBHAI VALIBHAI PATEL - Respondent(s)

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Appearance :

MR NILESH A PANDYA for Petitioner(s) : 1 - 2.
MR. GS SHARMA for Respondent(s) : 1,
None for Respondent(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 01/05/2007

COMMON ORAL JUDGMENT

Rule. Mr.G.S. Sharma, learned advocate waives service of rule.

2. These petitions are filed by petitioners-original defendants in Regular Civil Suit No.292 of 2004.

Regular Civil Suit No.292 of 2004 was filed by present respondent-original plaintiffs seeking a declaration and permanent injunction against the present petitioners- defendants in the said suit. The present petitioners filed their counterclaim and prayed for a similar injunction as was prayed in exh.5 of the original plaintiffs. The learned Trial Judge was pleased to partly allow exh.5 in favour of the plaintiffs and rejected the application filed by the defendants along with their counterclaim which led the defendants to file two appeals, which are dismissed by the learned District Judge. It is against the orders of dismissing those two appeals that the present two Special Civil Applications are filed.

Mr.Pandya, learned advocate appearing for petitioners states at the Bar which is not controverted by Mr.Sharma, the learned advocate for respondents that

the order partly allowing exh.5 and injuncting defendants from interfering with the possession of the original plaintiffs has never come into operation as after the said order was passed by the learned Trial Judge, the matter was taken in appeal before the District Court. The District Court was pleased to suspend the order of the trial court.

At the time of dismissing the appeal, order of the trial court was continued which is continued by this Court also. The resultant effect is that as on date the trial court order has not become operative.

3. Taking into consideration the aforesaid facts of the case and taking into consideration the nature of the dispute involved between the parties it is deemed fit that instead of adjudicating the merits of the case, the parties be directed to maintain status quo and suit be ordered to be expedited and disposed of finally.

4. The trial court is directed to give priority to hearing of Regular Civil Suit No.292 of 2004 and

decide the same as expeditiously as possible, preferably by 31st December 2007.

The parties are directed to maintain status quo as was prevailing on the date of filing of the suit.

5. This direction is given on an assurance given by the learned advocates appearing before this Court that they will instruct their counterparts to extend full cooperation to the learned Judge to see that the suit is decided in the aforesaid time frame and that they will not be seeking any avoidable adjournment.

6. Both the Special Civil Applications are disposed of with the aforesaid two directions. Rule is made absolute to the aforesaid extent. No order as to cost.

(RAVI R. TRIPATHI, J.)

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